



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

August 31, 2010

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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum includes a pursuit of County position on legislation regarding public contracts, a status update on County-sponsored legislation regarding the water quality funding initiative, and a status update on County-advocacy legislation regarding pollution control devices.

Pursuit of County Position on Legislation

AB 2036 (B. Berryhill), as amended on August 27, 2010, would require a local agency to make an electronic set of a project's contract documents available to a "contractor plan room service" free of charge.

Existing State contract law sets forth the procedures pursuant to which State and local agencies may solicit and evaluate bids or proposals for contracts for the construction of public works projects, and for the awarding of public works contracts. Public entities advertise for bids on the State Contracts Register by notification to contractors, and larger public works projects are also advertised in additional publications. Before entering into any contract for a project, the contracting entity must prepare full, complete, and accurate plans and specifications and estimates of costs in order to give directions that would enable any competent mechanic or other builder to carry them out. The original draft or a certified copy of the plans, specifications, and estimates of cost is required to be filed in the agency's offices before further action is taken on the contract for the project.

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Specifically, AB 2036 would: 1) require that State agencies furnish contract documents and plans; 2) eliminate the requirement that a paper copy of the contract documents or plans be provided; and 3) require that State and local agencies provide an electronic copy of a project's contract documents to a "contractor plan room service" at no charge to the contractor plan room. The bill does not include a definition of "contractor plan room services." According to the Senate Floor analysis, many builders' exchanges and other contractor groups operate "contractor plan room services," which allow their members to view hard copy plans or download plans and specifications for projects throughout the State. Many of these services have become online plan services.

According to the Department of Public Works (DPW), AB 2036 would cause the department to lose any ability to maintain a plan holders list because the plan room services will be able to generate copies for anyone. DPW has to have an accurate plan holder list in order to send additional information to prospective bidders. If contractors submit bids without acknowledging receipt of all addenda, DPW will be forced to find their bid non-responsive. In addition, DPW indicates that there is no definition of "contractor plan room service" in the bill, so it is vague who would be entitled to free copies. There is no provision to control who receives plan sets for sensitive public facilities like police stations, day care centers, or jails as plan rooms would be free to sell or distribute plan sets to anyone.

The Department of Public Works indicates this bill would nominally increase their construction costs and the County should not be required to provide free copies of bid documents to plan rooms who can then sell copies of the documents for profit to the general public. DPW recommends that the County oppose AB 2036.

Because AB 2036 is counter to existing Board policy to streamline and improve administrative operations and processes (e.g. contracting, procurement, and capital projects/space management) to increase effectiveness, enhance customer service, and support responsive County operations, and existing policy to maximize the effectiveness of the County's processes, structure, and operations to support timely delivery of customer-oriented and efficient public services, opposition to AB 2036 is consistent with existing policy. **Therefore, the Sacramento advocates will oppose AB 2036.**

Support and opposition to the recently amended version of AB 2036 is unknown. This measure is currently pending a vote on the Assembly Floor for concurrence in Senate amendments.

Status of County-Sponsored Legislation

County-sponsored AB 2554 (Brownley), which would authorize the Los Angeles County Flood Control District to implement storm water fees Countywide, in compliance

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with Proposition 218, upon adoption of an ordinance by the Board of Supervisors, passed the Assembly Floor for concurrence in Senate amendments by a vote of 48 to 26 on August 27, 2010, and now proceeds to the Governor's Desk.

Status of County-Advocacy Legislation

County-supported SB 435 (Pavley), which would: 1) make it a crime for a person to park, use, or operate a motorcycle registered in the State that does not have the federally required label affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards; and 2) make a violation of the Federal label requirement punishable by a fine of not less than \$50 or more than \$100 for a first conviction, and not less than \$100 or more than \$250 for a second or subsequent conviction, passed the Senate Floor for concurrence in Assembly amendments on August 30, 2010, and now proceeds to the Governor's Desk.

We will continue to keep you advised.

WTF:RA
EW:sb

c: All Department Heads
Legislative Strategist
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